

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NORTH CAROLINA
NORTHERN DIVISION**

BEACH MART, INC.,)	
)	
Plaintiff,)	Civil Action No. 2:15-cv-00003-FL
)	
v.)	
)	
PACIFIC BEACHWEAR, INC. and)	CONSENT JUDGMENT AND
EZRA BENDAYAN,)	STIPULATED PERMANENT
)	INJUNCTION
Defendants.)	
_____)	

The undersigned parties having stipulated and agreed to the entry of the following CONSENT JUDGMENT AND STIPULATED PERMANENT INJUNCTION (“Judgment”) in voluntary settlement of the above-captioned dispute, and request that the Court approve of and enter same into the record. After considering the parties’ stipulation, the Court finds that the Judgment should be entered.

NOW, THEREFORE, with the consent of the parties, through the undersigned attorneys, IT IS ORDERED, ADJUDGED AND DECREED AS FOLLOWS:

1. This Court has jurisdiction over the parties to this action and the subject matter of this litigation, and venue is proper in this Court.
2. Defendant Pacific Beachwear, Inc., a North Carolina business corporation, and Defendant Ezra Bendayan, individually (collectively, “Defendants”), knowingly and voluntarily appear and submit to the jurisdiction of this Court and agree to the entry of this Judgment.
3. Beach Mart, Inc. (“Beach Mart”) is the owner of all right, title, and interest in and to the Stylized OBX Wave Design trademark, as evidenced by U.S.P.T.O Serial No. 85/930,338, and the copyrighted artwork incorporated therein, as evidenced by U.S. Copyright Registration No. VA 1-876-274, entitled “OBX Design” (collectively “Beach Mart’s Intellectual Property”). Defendants hereby acknowledge the ownership and validity of Beach Mart’s Intellectual Property. Defendants further agree to not challenge, or assist others in challenging, the validity, ownership, enforceability, or fame of Beach Mart’s Intellectual Property in any jurisdiction throughout the world.
4. Beach Mart’s rights have been infringed by Defendants’ sale of products bearing unauthorized reproductions of Beach Mart’s Intellectual Property as set forth in the Complaint, and Defendants admit liability in connection with Beach Mart’s allegations.
5. Defendants, jointly and severally, have agreed to pay damages and attorneys’ fees to Beach Mart in compensation for such infringement, in an amount agreed to between the parties.

6. Pursuant to 17 U.S.C. § 502(a) and 15 U.S.C. § 1116(a), each and both of Defendants and each of Defendants' servants, employees, affiliates and agents are permanently enjoined from:

- (a) manufacturing, importing, advertising, marketing, promoting, supplying, distributing, offering for sale, or selling any products, goods, merchandise or apparel bearing unauthorized, infringing, or counterfeit versions of Beach Mart's Intellectual Property or any other mark, designation or design element substantially similar or confusingly similar thereto, including but not limited to any of Beach Mart's other intellectual property.
- (b) engaging in any other activity constituting unfair competition with Beach Mart, or acts and practices that deceive consumers, the public, and/or trade, including without limitation, the use of designations and design elements associated with Beach Mart;
- (c) engaging in any other activity that will cause the distinctiveness of Beach Mart's Intellectual Property to be diluted, tarnished, or blurred.

7. Any violation of this Judgment by either or both Defendants shall constitute contempt of Court and entitle Beach Mart to further and additional injunctive relief, and damages as may be assessed by the Court. This Court has and retains jurisdiction over the parties and of the action for consideration and disposition of any contempt motion for violation of any terms of this Judgment.

8. The parties hereby waive any right to appeal any aspect of this Judgment.

CONSENTED TO BY THE PARTIES this the 9th day of April, 2015:

/s/ Stephen F. Shaw

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*Attorneys for Ezra Bendayan, individually, and Pacific
Beachwear, Inc.*

SO ORDERED this the 13th day of April, 2015.



The Honorable Louise Wood Flanagan
United States District Court Judge